

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CIRO CAMACHO,

Case No. 3:23-cv-00001-MMD-CSD

Petitioner,

ORDER

v.

TIM GARRETT, *et al.*,

Respondents.

*Pro se* Petitioner *Ciro Camacho* has filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. (ECF No. 1-1 (“Petition”).) This matter comes before the Court on initial review under the Rules Governing Section 2254 Cases (“Habeas Rules”) and for consideration of *Camacho’s* motion for appointment of counsel (ECF No. 1-2). For the reasons discussed below, the Court directs service of the Petition and grants *Camacho’s* motion.

**I. BACKGROUND<sup>1</sup>**

*Camacho* challenges a conviction and sentence imposed by the Ninth Judicial District Court for Douglas County. On September 29, 2018, the state court entered a judgment of conviction, pursuant to a guilty plea, for sexual assault of a child under the age of 14 and two counts of using a minor in producing pornography. *Camacho* was sentenced to an aggregate term of life with parole eligibility after 55 years. *Camacho* appealed, and the Nevada Court of Appeals affirmed on October 15, 2019. Remittitur issued on November 13, 2019.

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<sup>1</sup>The Court takes judicial notice of the online docket records of the Nevada appellate courts. These docket records may be accessed by the public online at: <http://caseinfo.nvsupremecourt.us/public/caseSearch.do>.

1 On September 11, 2020, Camacho filed a state petition for writ of habeas corpus.  
2 The state court denied post-conviction relief, and Camacho filed a post-conviction appeal.  
3 The Nevada Supreme Court affirmed the denial on December 15, 2022. On or about  
4 January 3, 2023, Camacho initiated this federal habeas corpus proceeding.

## 5 II. DISCUSSION

6 Habeas Rule 4 requires the assigned judge to examine the habeas petition and  
7 order a response unless it “plainly appears” that the petition is not entitled to relief. See  
8 *Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019). This rule allows courts to  
9 screen and dismiss petitions that are patently frivolous, vague, conclusory, palpably  
10 incredible, false, or plagued by procedural defects. See *Boyd v. Thompson*, 147 F.3d  
11 1124, 1128 (9th Cir. 1998); *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990)  
12 (collecting cases). A response is warranted in the instant case.

13 This Court now turns to Camacho’s motion for the appointment of counsel. (ECF  
14 No. 1-2.) There is no constitutional right to appointed counsel for a federal habeas corpus  
15 proceeding. See *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Luna v. Kernan*, 784  
16 F.3d 640, 642 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327, 336-37 (2007)).  
17 An indigent petitioner may request appointed counsel to pursue that relief. See 18 U.S.C.  
18 § 3006A(a)(2)(B). The decision to appoint counsel is generally discretionary. See *id.*  
19 (authorizing appointed counsel when “the interests of justice so require”). However,  
20 counsel must be appointed if the complexities of the case are such that denial of counsel  
21 would amount to a denial of due process, and where the petitioner is a person of such  
22 limited education as to be incapable of fairly presenting his claims. See *LaMere v. Risley*,  
23 827 F.2d 622, 626 (9th Cir. 1987); *Brown v. United States*, 623 F.2d 54, 61 (9th Cir. 1980).

24 Following review of the Petition and the motion for appointment of counsel, the  
25 Court will provisionally appoint the Federal Public Defender to represent Camacho. The  
26 Court finds that appointment of counsel is in the interests of justice given, among other  
27 things, Camacho’s lengthy sentence.

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1           **III.     CONCLUSION**

2           It is therefore ordered that the application to proceed *in forma pauperis* (ECF No.  
3 1) is granted.

4           The Clerk of Court is directed to file the Petition (ECF No. 1-1) and the motion for  
5 appointment of counsel (ECF No. 1-2).

6           The Clerk of Court is further directed to: (1) add Aaron Ford, Attorney General of  
7 the State of Nevada, as counsel for Respondents; and (2) electronically serve  
8 Respondents' counsel a copy of the Petition (ECF No. 1-1) and electronically provide  
9 Respondents' counsel a copy of this order and copies of all other items previously filed in  
10 this case by regenerating the Notices of Electronic Filing. Respondents' counsel must  
11 enter a notice of appearance within 21 days of entry of this order, but no further response  
12 will be required until further order.

13           It is further ordered that the motion for appointment of counsel (ECF No. 1-2) is  
14 granted. The Clerk of Court is further directed to electronically serve the Federal Public  
15 Defender a copy of this order and the Petition (ECF No. 1-1). The Federal Public Defender  
16 is provisionally appointed as counsel and will have 30 days to: (1) undertake direct  
17 representation of Camacho by filing a notice of appearance; or (2) indicate the office's  
18 inability to represent Camacho in these proceedings. If the Federal Public Defender is  
19 unable to represent Camacho, the Court will appoint alternate counsel. Appointed counsel  
20 will represent Camacho in all federal proceedings related to this matter, including any  
21 appeals or certiorari proceedings, unless allowed to withdraw. A deadline for the filing of  
22 an amended petition and/or seeking other relief will be set after counsel has entered an  
23 appearance. The Court anticipates a deadline of approximately 90 days from entry of the  
24 formal order of appointment.

25           It is further ordered that any deadline established and/or any extension thereof will  
26 not signify any implied finding of a basis for tolling during the time period established.  
27 Camacho remains responsible for calculating the running of the federal limitation period  
28 and timely presenting claims. That is, by setting a deadline to amend the petition and/or

1 by granting any extension thereof, the Court makes no finding or representation that the  
2 Petition, any amendments thereto, and/or any claims contained therein are not subject to  
3 dismissal as untimely. See *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).

4 The Clerk of Court is finally directed to send a copy of this order to Camacho and  
5 the CJA Coordinator for this division.

6 DATED THIS 5<sup>th</sup> Day of January 2023.

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MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE